

**ASSEMBLY BILL**

**No. 1040**

**Introduced by Assembly Member Montanez**

February 22, 2005

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An act to amend Section 313 of the Education Code, relating to pupils.

LEGISLATIVE COUNSEL'S DIGEST

AB 1040, as introduced, Montanez. Pupils: English language learners.

Existing law requires each school district that has one or more pupils who are English learners to assess the English language development of each pupil to determine the level of proficiency and requires the assessment to be conducted upon initial enrollment, and annually thereafter, until the pupil is designated as English proficient.

This bill would make technical, nonsubstantive changes to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 313 of the Education Code is amended  
2 to read:

3 313. (a) Each school district that has one or more pupils who  
4 are English learners shall assess each pupil's English language  
5 development in order to determine the level of proficiency for the  
6 purposes of this chapter.

7 (b) ~~The State Department of Education~~ *department*, with the  
8 approval of the State Board of Education, shall establish

1 procedures for conducting the assessment required pursuant to  
2 subdivision (a) and for the reclassification of a pupil from  
3 English learner to proficient in English.

4 (c) Commencing with the 2000–01 school year, the  
5 assessment shall be conducted upon initial enrollment, and  
6 annually, thereafter, during a period of time determined by the  
7 Superintendent of ~~Public Instruction~~ and the State Board of  
8 Education. The annual assessments shall continue until the pupil  
9 is redesignated as English proficient. The assessment shall  
10 primarily utilize the English language development test identified  
11 or developed by the Superintendent of ~~Public Instruction~~  
12 pursuant to Chapter 7 (commencing with Section 60810) of Part  
13 33. Prior to completion of the English language development test,  
14 a school district shall use either an assessment instrument  
15 developed by the school district or an assessment recommended  
16 by the ~~State Department of Education~~ *department*.

17 (d) The reclassification procedures developed by the ~~State~~  
18 ~~Department of Education~~ *department* shall utilize multiple  
19 criteria in determining whether to reclassify a pupil as proficient  
20 in English, including, but not limited to, all of the following:

21 (1) Assessment of language proficiency using an objective  
22 assessment instrument, including, but not limited to, the English  
23 language development test pursuant to Section 60810.

24 (2) Teacher evaluation, including, but not limited to, a review  
25 of the pupil's curriculum mastery.

26 (3) Parental opinion and consultation.

27 (4) Comparison of the pupil's performance in basic skills  
28 against an empirically established range of performance in basic  
29 skills based upon the performance of English proficient pupils of  
30 the same age, that demonstrates whether the pupil is sufficiently  
31 proficient in English to participate effectively in a curriculum  
32 designed for pupils of the same age whose native language is  
33 English.

34 (e) It is the intent of the Legislature that nothing in this section  
35 preclude a school district or county office of education from  
36 testing English language learners more than once in a school year  
37 if the school district or county office of education chooses to do  
38 so.

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